

UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK

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ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor

Plaintiff,

Case No. 07 CV 3332 (CLB)

v.

Hurtig-Evans International, Inc., a  
Corporation; HEI, Inc., a Corporation  
dba Hurtig-Evans Home Care Services;  
Phillip K.C. Casimir, Individually and  
as an Officer of Hurtig-Evans International,  
Inc. and HEI, Inc.; Anisha Kiran Casimir,  
Individually and as an Officer of Hurtig-Evans  
International, Inc. and HEI, Inc.,

ECF Case

Defendants.  
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**DEFENDANTS' ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT**

Defendants', HURTIG-EVANS INTERNATIONAL INC, HEI INC d/b/a/ HURTIG-EVANS  
HOME CARE SERVICES, PHILLIP K.C. CASIMIR AND ANISHA KIRAN CASIMIR  
(hereinafter referred to as "Defendant"), by and through their undersigned counsel, hereby responds  
to the allegations contained in Plaintiffs' First Amended Complaint dated April 25, 2007 as follows:

1. Defendant denies the allegations contained in paragraph "1" of Plaintiff's Complaint,  
except admits that Plaintiff purports to cause this Court to have jurisdiction over Plaintiff's claims  
under the Fair Labor Standards Act, and further denies that Plaintiff has pleaded a claim upon which  
relief can be granted.

2. Hurtig-Evans international Inc, no longer has its principal office and place of business at 514 Main Street, Suite 201, New Rochelle, New York 10801.

3. Defendant denies allegations contained in paragraphs 5,6,7,8 of Plaintiff's Complaint

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

6. Plaintiffs' Complaint fails to state a claim upon which relief may be granted or for which the relief or recovery sought can be awarded.

**AS A FOR A SECOND AFFIRMATIVE DEFENSE**

7. At all times relevant hereto, Defendant acted in good faith and did not violate any rights which may be secured to Plaintiffs under federal, state or local laws, rules, regulations or guidelines and, as such, the applicable statute of limitation under the FLSA is two years.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

8. Defendant believes in good faith and has reasonable grounds for believing that the individuals were exempt from the overtime requirements of the FLSA and as such, cannot recover liquidated damages under the statute Long Island Care at Home v. Coke \_\_\_\_\_ U.S. \_\_\_\_\_, 127 S. Ct. 2339 (June 2007)

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

9. Plaintiff's claims are barred, in whole or in part, because Plaintiff has failed to satisfy statutory or other prerequisites to suit by the applicable statutes of limitation.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

10. The Complaint is barred, in whole or in part, because Defendant has, in good faith, acted in conformity with and in reliance upon written administrative regulations, interpretations and

opinion letters with regard to some or all of the acts or omissions alleged in the Complaint.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

11. The relief sought in the Complaint is barred, in part, because expert witness fees and costs are not recoverable in actions pursued under 29 U.S.C. §216(b).

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

12. The relief sought in the Complaint is barred, in whole or in part, because the individuals enumerated in Exhibit A are estopped by their own conduct from claiming any damages or any relief against Defendant.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

13. To the extent the individuals enumerated in Exhibit A are exempt from eligibility for overtime compensation, they are not entitled to overtime compensation under the FLSA.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

14. The individual enumerated in Exhibit A have been paid all wages due and, as such, Plaintiff cannot state a claim upon which relief could be granted.

WHEREFORE, Defendant requests that the Court:

- a. dismiss with prejudice Plaintiff's Complaint;
- b. deny each and every demand, claim and prayer for relief contained in Plaintiff's Complaint;
- c. award to Defendant reimbursement for its costs, including attorneys' fees; and,
- d. grant such other and further relief as the Court deems just and proper.



Dated: New Rochelle, New York  
July 10, 2007

Respectfully submitted,

By: 

Robert David Goodstein, Esq  
Attorneys for Defendant  
56 Harrison Street, Suite 401  
New Rochelle, New York 10801  
(914) 632-8382

To: Harold Lemar, Esq  
Patricia M. Rodonhausen  
Regional Solicitor  
U.S. Department of Labor  
201 Varick Street, Room 983  
New York, New York 10014